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15 UNITED STATES DISTRICT COURT

16 FOR THE NORTHERN DISTRICT OF CALIFORNIA

17 OAKLAND DIVISION

18 EPIC GAMES, INC.,  
19 Plaintiff, Counter-defendant

20 v.  
21 APPLE INC.,  
22 Defendant, Counterclaimant

23 IN RE APPLE IPHONE ANTITRUST  
24 LITIGATION

25 DONALD R. CAMERON, *et al.*,  
26 Plaintiffs

27 v.  
28 APPLE INC.,  
Defendant.

Case No. 4:20-cv-05640-YGR-TSH  
Case No. 4:11-cv-06714-YGR-TSH  
Case No. 4:19-cv-03074-YGR-TSH

**STIPULATED [PROPOSED]  
SUPPLEMENTAL PROTECTIVE ORDER  
GOVERNING DISCOVERY FROM  
GOOGLE**

Hon. Yvonne Gonzalez Rogers  
Hon. Thomas S. Hixson

STIPULATED [PROPOSED] SUPPLEMENTAL PROTECTIVE ORDER  
GOVERNING DISCOVERY FROM GOOGLE

CASE NOS. 4:11-CV-06714-YGR-TSH, 4:19-CV-03074-YGR-TSH, 4:20-CV-05640-YGR-TSH

1        WHEREAS the parties to *In re Apple iPhone Antitrust Litigation* and *Cameron v. Apple Inc.*  
2 agreed to a Stipulated Protective Order on January 6, 2020 (Case No. 4:11-cv-06714-YGR, Dkt. No.  
3 195; Case No. 4:19-cv-03074-YGR, Dkt. No. 81);

4        WHEREAS the Court entered the Stipulated Protective Order on January 9, 2020 (Case No.  
5 4:11-cv-06714-YGR, Dkt. No. 199; Case No. 4:19-cv-03074-YGR, Dkt. No. 85) (the “Protective  
6 Order”);

7        WHEREAS, parties to *Epic Games, Inc. v. Apple Inc.* agreed that the terms of the Stipulated  
8 Protective Order in *Cameron v. Apple Inc.* and *In re Apple iPhone Antitrust Litigation* should also  
9 apply in *Epic Games, Inc. v. Apple Inc.* (Case No. 4:20-cv-05640, Dkt. No. 110) (collectively, the  
10 “Litigations”), and the Court entered a stipulated protective order in *Epic Games, Inc. v. Apple Inc.*  
11 on October 2, 2020 with identical terms (Case No. 4:20-cv-05640, Dkt. No. 112);

12       WHEREAS Paragraph 10(a) of the Protective Order states that “[t]he terms of this Order are  
13 applicable to information produced by a Non-Party in this action” and that “[n]othing in these  
14 provisions should be construed as prohibiting a Non-Party from seeking additional protections”;

15       WHEREAS Parties to the Litigations have served subpoenas on Alphabet Inc. (“Google”)<sup>1</sup>;

16       WHEREAS Google is willing to produce competitively sensitive information in response to  
17 subpoenas served on it in these Litigations, subject to certain additional protections beyond those set  
18 forth in the Protective Order and that the Parties to the Litigations agree to;

19       WHEREFORE, IT IS HEREBY ORDERED that documents produced by Google in  
20 connection with the Litigations shall be further subject to the following provisions (the  
21 “Supplemental Protective Order”):

22       **A. GENERAL PROVISIONS**

23       1.       The definitions, terms and provisions contained in the Protective Order shall be  
24 incorporated herein by reference as though fully set forth herein; provided, however, that in the event  
25 of a conflict between any definition, term or provision of this Supplemental Protective Order and any

26 \_\_\_\_\_  
27       <sup>1</sup> The term “Google” shall include any entity that responds to subpoenas served on Alphabet Inc. in  
28 the Litigations. References to “competitors” within this Supplemental Protective Order shall be  
interpreted to mean competitors of Alphabet Inc. and/or Google LLC, and their subsidiaries.

1 definition, term or provision of the Protective Order, this Supplemental Protective Order will control  
2 with respect to such conflict.

3       2. The definitions, terms and provisions contained in this Supplemental Protective Order  
4 shall apply only to those Discovery Materials produced by Google, and nothing herein shall provide  
5 any rights or protections to the Parties to the Litigations beyond those set forth in the Protective  
6 Order.

7 **B. ADDITIONAL DEFINITIONS**

8       1. Business Consultant: a consultant advising on or involved in competitive decision-  
9 making.

10       2. Party Expert: with respect to “GOOGLE HIGHLY CONFIDENTIAL – OUTSIDE  
11 COUNSEL EYES ONLY”, a person with specialized knowledge or experience in a matter pertinent  
12 to the Litigations who: (1) has been retained by a Party or its counsel to serve as an expert witness or  
13 as a consultant in this action; (2) is not a current employee or current Business Consultant of a Party,  
14 Google, or of any Google competitor, or otherwise currently involved in competitive decision-  
15 making for a Party, Google, or for any Google competitor; (3) has not, within the 12 months  
16 preceding the entry of this Protective Order, been an employee or Business Consultant of a Party,  
17 Google, or Google’s competitor, or otherwise been involved in competitive decision-making for a  
18 Party, Google, or Google’s competitor; and (4) at the time of retention, is not anticipated to become  
19 an employee or Business Consultant of a Party, Google, or of any Google competitor, or to be  
20 otherwise involved in competitive decision-making for a Party or for any Google competitor. If,  
21 while this action is pending, a Party learns that any of its retained experts or consultants as defined  
22 herein is anticipating to become, or has become, an employee or Business Consultant of Google or  
23 any Google competitor, or otherwise involved in competitive decision-making for Google or any  
24 Google competitor, the Party learning such information shall promptly disclose the information to  
25 Google.

26       3. “GOOGLE HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY”  
27 Information or Items: extremely sensitive “Confidential Information or Items” produced by Google

1 and that contain algorithms and source code; non-public, commercially sensitive customer lists; non-  
 2 public financial, marketing, or strategic business planning information; current or future non-public  
 3 information regarding prices, costs, or margins; information relating to research, development, testing  
 4 of, or plans for existing or proposed future products; evaluation of the strengths and vulnerabilities of  
 5 Google's product offerings, including non-public pricing and cost information; confidential  
 6 contractual terms, proposed contractual terms, or negotiating positions (including internal  
 7 deliberations about negotiating positions) taken with respect to Google or competitors to Google;  
 8 information relating to pending or abandoned patent applications that have not been made available  
 9 to the public; personnel files; sensitive personally identifiable information; and communications that  
 10 disclose any such information.

11 **C. ADDITIONAL PROTECTIONS FOR ACCESS TO AND USE OF GOOGLE**  
 12 **PROTECTED MATERIALS**

13 1. Manner of Designating “GOOGLE HIGHLY CONFIDENTIAL – OUTSIDE  
 14 COUNSEL EYES ONLY” Information or Items. To qualify for protection as “GOOGLE HIGHLY  
 15 CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY”, Google must affix the legend  
 16 “GOOGLE HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” to each page of any  
 17 document for which Google seeks protection under this Supplemental Protective Order.

18 2. Disclosure of “GOOGLE HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES  
 19 ONLY” Information or Items. Unless otherwise ordered by the Court or permitted in writing by  
 20 Google, a Party may disclose any information or item designated “GOOGLE HIGHLY  
 21 CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” only to:

22 (a) the Party’s Outside Counsel of Record in this action, as well as employees of  
 23 said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for  
 24 these Litigations and who have signed the “Acknowledgement and Agreement to be Bound” that is  
 25 attached to the Protective Order as Exhibit A;

26

27

28

(b) Party Experts (as defined in this Supplemental Protective Order) (1) to whom disclosure is reasonably necessary for these Litigations and (2) who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(c) the Court and its personnel;

(d) court reporters and their staff, professional jury or trial consultants, and Professional Vendors to whom disclosure is reasonably necessary for these Litigations and who have signed the “Acknowledgment and Agreement to be Bound” (Exhibit A); and

(e) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

3. All other provisions of the Protective Order, including Paragraphs 2, 3, 4, 5.2, 6, 7.1, 9, 10, 11, 12, 13, and 14 apply mutatis mutandis to information designated “GOOGLE HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” to the same extent as they apply to information designated as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”.

**IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

Dated: April 9, 2021 By: /s/ Jay P. Srinivasan

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13 Dated: April 9, 2021

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21 Respectfully submitted,

22 *Attorneys for Plaintiff Epic Games, Inc.*

23 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

24 DATED: April 9, 2021

25   
26 HON. YVONNE GONZALEZ ROGERS  
27 United States District Judge